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**UNITED STATES DISTRICT COURT**

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**DISTRICT OF NEVADA**

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JUDY KROSHUS, et al.,

3:09-cv-0713-LDG-RAM

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Plaintiffs,

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v.

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UNITED STATES OF AMERICA, et al.,

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Defendants.

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14 On August 9, 2011, defendants TRC Engineers, Inc., fka VPOINT, Martin Ugalde, Robert  
15 Bidart, and Michael Bidart filed a motion to dismiss for abstention and to stay proceedings (#275,  
16 opposition #277, reply #278). Defendants pointed out that plaintiffs have filed a similar action in state  
17 court and argued that plaintiffs were seeking a double recovery, and the court should abstain under  
18 the Colorado River doctrine. Subsequently, on October 21, 2011, defendants filed their supplement  
19 to motion to dismiss and motion to strike plaintiffs' complaint (#287). The supplement raised  
20 completely new arguments dealing with the requirement under NRS 11.258 and NRS 40.6884 for  
21 filing an affidavit of merit concurrently with service. The record, however, does not indicate that  
22 plaintiffs have filed a response to the affidavit-of-merit arguments raised by defendants. Under the  
23 rules, plaintiffs are not required to respond to a supplemental filing, and the motion to strike was not  
24 filed or docketed separately. In any event, the court deems it important in this instance that plaintiffs  
25 be allowed to address the affidavit-of-merit arguments before the court rules on the motions.  
26 Accordingly,

1 THE COURT HEREBY ORDERS that defendants TRC Engineers, Inc., fka VPOINT, Martin  
2 Ugalde, Robert Bidart, and Michael Bidart's motion to dismiss for abstention and to stay proceedings  
3 (#275) and supplement to motion to dismiss and motion to strike plaintiffs' complaint (#287) are  
4 DENIED without prejudice to their reinstatement by defendants after plaintiffs have had the  
5 opportunity to address the affidavit-of-merit argument raised by defendants in their supplement to the  
6 motion to dismiss and motion to strike plaintiffs' complaint.

7 THE COURT FURTHER ORDERS that plaintiffs shall have 60 days from the date of this  
8 order in which to file their response to the affidavit of merit argument raised by defendants, and  
9 defendants shall have 30 days from the date of plaintiffs' response in which to file a reply.

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11 DATED this 30 day of March, 2012.

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14 Lloyd D. George  
15 United States District Judge  
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